

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

KURT MORALES II, BEN FABRIKANT,  
STEPHEN OST, BRANDON CALLIER,  
and NATHAN BYARS, individually, and  
on behalf of all others similarly situated,

Plaintiffs,

v.

SUNPATH LTD., a Delaware corporation,  
NORTHCOAST WARRANTY  
SERVICES, INC., a Delaware corporation,  
and MATRIX FINANCIAL SERVICES,  
LLC, a Delaware limited liability company,

Defendants.

Case No. 20-CV-01376-RGA

**STIPULATION AND [PROPOSED] ORDER ALLOWING PLAINTIFFS LEAVE TO  
FILE A SECOND AMENDED COMPLAINT**

Plaintiffs Kurt Morales II, Ben Fabrikant, Stephen Ost, Brandon Callier, and Nathan Byars, individually and on behalf of all others similarly situated (“Plaintiffs”), and Defendants Sunpath Ltd., and Northcoast Warranty Services, Inc. (“Defendants”), stipulate and agree as follows:

1. Pursuant to Federal Rule of Civil Procedure (F.R.C.P.) 15(a)(2) Plaintiffs and Defendants have agreed, subject to the approval of the Court, that Plaintiffs may file their Second Amended Complaint without the need to seek further relief from this Court;

2. The parties have agreed, subject to the Court’s approval of the Stipulation and proposed order, notwithstanding the timing set forth in F.R.C.P. 15(a)(3), the Defendants’ answer or other response thereto will be due 20 days from the date the Second Amended Complaint is filed;

3. Pending before the Court are Plaintiffs’ Combined Motions for Preliminary Injunction and Provisional Class Certification (D.I. 13), which is scheduled for hearing on February 16, 2021, and Defendants’ Motion to Dismiss Plaintiffs’ First Amended Class Action Complaint

(D.I. 30) (the “Pending Motions), which is fully briefed; and

4. Counsel for the parties have agreed that pursuant to the Local Rule of Civil Practice and Procedure of the United States District Court for the District of Delaware (“Local Rule”) 7.1.1 to report to the Court on or before Wednesday, February 10, 2021 as to whether the parties agree on whether the Pending Motions require any amendment, supplementation or other revision, occasioned by the filing of the Second Amended Complaint, or whether the parties agree that the Pending Motions may be presented to and considered by the Court without additional amendment, in their current form.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: February 9, 2021

By: /s/ Ian Connor Bifferato.

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DATED: February 9, 2021

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*Attorneys for Defendants Sunpath Ltd. and  
Northcoast Warranty Services, Inc.*

IT IS SO ORDERED.

DATED: 2/10/2021

/s/ Richard G. Andrews

Richard G. Andrews  
United States District Judge